

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARTIN TROTT and CHRISTOPHER SMITH, as Joint
Official Liquidators and Foreign Representatives of
PLATINUM PARTNERS VALUE ARBITRAGE FUND
L.P. (in OFFICIAL LIQUIDATION), *et ano.*

Plaintiffs,

- against -

PLATINUM MANAGEMENT (NY) LLC, *et al.*,

Defendants.

Case No. 1:18-cv-10936 (JSR)

STATEMENT IN REGARD TO INITIAL CONFERENCE

Martin Trott and Christopher Smith, as Joint Official Liquidators and Foreign Representatives of Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (the “**JOLs**”), and Platinum Partners Value Arbitrage Fund L.P. (in Official Liquidation) (“**PPVA**” and collectively with the JOLs, “**Plaintiffs**”), by their counsel Holland & Knight LLP, respectfully submit the following statement in regard to the December 19, 2018 Initial Conference in this action.

1. On November 21, 2018, Plaintiffs commenced the above-referenced action by filing the complaint (the “**Complaint**”) [Docket No. 1].

2. The Complaint names 90 defendants (the “**Defendants**”), comprised of foreign and domestic individuals and entities, including certain unidentified Defendants listed as John Does 1-100. Attached as **Exhibit 1** is a complete list of the Defendants, John Does excluded, and communications Plaintiffs’ counsel have had with the Defendants or their counsel as of the date of this filing.

3. On December 4, 2018, the Court entered a Notice of Court Conference (the “**Conference Order**”) directing that an initial case conference be held on December 19, 2018 at 11:00 a.m. in Courtroom 14B, 500 Pearl Street, New York, New York 10007 (the “**Conference**”). The Conference Order further directs Plaintiffs and all Defendants to appear at the Conference individually or by counsel. The Conference Order also attaches a form case management plan that sets a trial ready date of May 20, 2019.

4. The Defendants fall into three broad groups: (i) Platinum Management¹ and its principals, managers, advisors and owners (“**Platinum Defendants**”); (ii) entities affiliated with the Beechwood enterprise and the principals, managers, advisors and owners of the Beechwood Entities (“**Beechwood Defendants**”); and (iii) the BEOF Funds and certain of their investors (“**BEOF Defendants**”).

5. Plaintiffs expect the individual Platinum Defendants and the Beechwood Defendants to eventually retain counsel and appear in this action and communications with these potential attorneys of record have already begun. Plaintiffs do not expect the BEOF Funds or their counsel to appear in this case, as they have defaulted in other related matters, and anticipate that many of the BEOF Funds investors named as Defendants will not appear at the Conference. A significant number of the BEOF Funds investor Defendants have appeared as purported creditors in the Cayman Liquidation of PPVA, and notice has been duly sent to their counsel of record in that proceeding.

6. On December 7-8, 2018, Plaintiffs’ counsel sent each Defendant a letter via Federal Express Overnight courier service enclosing copies of the Conference Order and this Court’s

¹ All capitalized terms not defined herein shall have the meaning prescribed in the Complaint.

Individual Rules of Practice (the “**Defendant Letter**”). A true and correct copy of the Defendant Letter, including the service list, is attached hereto as **Exhibit 2**.

7. On December 8, 2018, Plaintiffs’ counsel sent a letter via email to certain attorneys that Plaintiffs understand have represented one or more of the Defendants in separate litigation related to this matter, notifying these attorneys of the upcoming Conference and enclosing a copy of the Conference Order (the “**Attorney Letter**”). A true and correct copy of the Attorney Letter, including the service list, is attached hereto as **Exhibit 3**.

8. Since delivery of the Defendant Letter and the Attorney Letter, Plaintiffs’ counsel have been contacted by certain Defendants and attorneys concerning this action and the upcoming Conference. *See* Exhibit 1.

9. Plaintiffs intend to continue communications with these counsel and other counsel that may appear prior to the December 19, 2018 conference.

10. Particularly in connection with the Platinum Defendants and the Beechwood Defendants, Plaintiffs intend to coordinate service or stipulated service with these Defendants, such that their timeframes to answer or otherwise move to dismiss the complaint are synchronized, and to further confer, to the extent applicable and towards maximizing efficiency, as to a schedule for motion(s) to dismiss and an omnibus response by Plaintiffs to the same.

11. Plaintiffs note that the Conference Order and this Court’s Individual Rules provide for the submission of a draft case management plan in advance of the Conference, and also indicate a trial ready date of May 20, 2019. It is likely that Plaintiffs could meet this trial deadline in a vacuum, particularly as all or nearly all of the relevant documentation is located on the Platinum Management server, and Plaintiffs have engaged the services of KPMG (Cayman) to act as E-Discovery manager. However, Plaintiffs anticipate logistical hurdles being presented on

Defendants' side, many of whom have yet to retain counsel, such as Defendants' capacity to receive or request the more than 13 million documents from the Platinum server in the Plaintiffs' possession and produce the substantial relevant documentation believed to be in Defendants' control or possession.

12. First, while we have received calls from some Defendants/attorneys, as set forth on Exhibit 1, the substantial majority of the Defendants have not yet contacted us and notices of appearance have been filed for only a single Defendant in this case. [Docket No. 19]. Plaintiffs' counsel intend to make further efforts to contact all Defendants prior to service of the Complaint, in hopes of identifying additional attorneys of record willing to accept service of the Complaint on behalf of their respective clients, be it through additional letters or telephone calls to the Defendants or their representatives. However, Plaintiffs do not know whether the Defendants we have not heard from intend to appear at the Conference in person and/or if they have retained counsel to represent them in this case.

13. Second, the JOLs are custodians of Platinum Management's servers and are currently in possession of more than 13 million documents from that server that may be relevant to this action and may be subject to disclosure pursuant to Fed. R. Civ. P. 26(a)(1). Production of the entire corpus of these documents may be burdensome to both the Plaintiffs and Defendants, and it is anticipated that in the aggregate, Defendants will possess a similar volume of relevant documentation. Plaintiffs' intend to coordinate with Defendants' counsel to reasonably set the parties' (and non-parties') discovery obligations. Plaintiffs anticipate that the Beechwood Defendants and some of the Platinum Defendants have already made productions in related civil and criminal actions, but this has not been confirmed by Defendants' counsel.

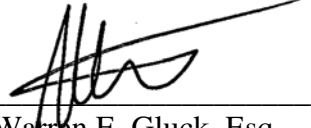
14. Under the circumstances, Plaintiffs initially request that any case management plan entered in this action facilitate synchronization of service on the Defendants so that all Defendants are bound to the same deadline to file responsive pleadings.

15. Plaintiffs further request that any case management plan entered in this action permit Plaintiffs to file an omnibus response to any motions filed by the Defendants and grant Plaintiffs a temporary reprieve from page and/or word count limitations for their omnibus opposition to such motions.

16. Concerning discovery, Plaintiffs anticipate coordinating with counsel for the Platinum and Beechwood Defendants, once they have confirmed their representations in this action, so as to receive and produce documentation that has already been produced in the various actions where discovery has already progressed.

Dated: December 12, 2018
New York, New York

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